

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

In re:)	
)	
UNITED STATES and STATE OF NEW YORK)	
ex rel. XIOMARY ORTIZ and JOSEPH)	
GASTON, <i>plaintiffs</i> , v. MOUNT SINAI)	Case: 16mc _____
HOSPITAL, MOUNT SINAI SCHOOL OF)	
MEDICINE, AND MOUNT SINAI)	
RADIOLOGY ASSOCIATES <i>Defendants</i>)	
(S.D.N.Y. no. 13 CV 4735-RMB-BCM)	
)	

Plaintiffs' address:
2400 Davidson Ave., Apt. A17
Bronx, New York 10468

Defendants' address:
One Gustave L. Levy Place
New York, New York 10029-6574

WU, GROHOVSKY & WHIPPLE PLC
1300 Pennsylvania Ave., N.W., Suite 700
Washington, D.C. 20004
(202) 204-3053
Attorneys for plaintiffs Ortiz and Gaston

McINNIS LAW
521 Fifth Ave., 17th Floor
New York, N.Y. 10175
(212) 292-4583
*Attorneys for plaintiffs Ortiz and Gaston
in the New York Action (not admitted in D.C.)*

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

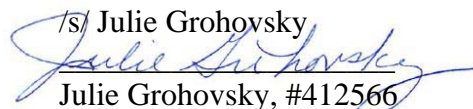
In re:)	
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UNITED STATES and STATE OF NEW YORK)	
ex rel. XIOMARY ORTIZ and JOSEPH)	
GASTON, <i>plaintiffs</i> , v. MOUNT SINAI)	Case: 16ms_____
HOSPITAL, MOUNT SINAI SCHOOL OF)	
MEDICINE, AND MOUNT SINAI)	
RADIOLOGY ASSOCIATES <i>Defendants</i>)	
(S.D.N.Y. no. 13 CV 4735-RMB-BCM)	

**RELATORS' MOTION TO COMPEL COMPLIANCE WITH SUBPOENAS
OR ALTERNATIVELY. TO TRANSFER THE MOTION TO THE ISSUING COURT**

Plaintiffs Xiomary Ortiz and Joseph Gaston ("Plaintiffs"), by counsel, move the Court to (i) enter the attached proposed order, pursuant to Fed. R. Civ. P. 45(a)(1)(A) and 37(a)(2), compelling the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services ("CMS"), to disclose to the Plaintiffs the records requested in the attached subpoenas addressed to CMS dated February 23, 2016 (ex. A and B attached), issued in the U.S. District Court for the Southern District of New York (the "issuing court") in *United States, et al. ex rel. Ortiz, et al. v. Mount Sinai Hospital, et al.*, docket no. 13 CV 4735 (RMB) (BCM) (the "New York action"), or alternatively, (ii) to enter the attached proposed order, pursuant to Fed. R. Civ. P. 45(f), transferring this motion to the issuing court.

Respectfully submitted,
WU, GROHOVSKY & WHIPPLE PLC

/s/ Julie Grohovsky



Julie Grohovsky, #412566
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(202) 204-3053
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Attorneys for plaintiffs Ortiz and Gaston

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rbernstein@mcinnis-law.com
*Attorneys for plaintiffs Ortiz and Gaston in
the New York Action (not admitted in D.C.)*

UNITED STATES DISTRICT COURT

for the

Southern District of New York

UNITED STATES and STATE OF NEW YORK ex rel.
XIOMARY ORTIZ and JOSEPH GASTON,*Plaintiffs*

v.

MOUNT SINAI HOSPITAL, MOUNT SINAI SCHOOL OF MEDICINE,
and MOUNT SINAI RADIOLOGY ASSOCIATES,*Defendants*

Civil Action No. 13 CV 4735 (RMB (BCM))

**SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION**To: United States Department of Health and Human Services, Centers for Medicare and Medicaid Services
200 Independence Ave., SW, Rm 713-F, Washington, DC 20201*(Name of person to whom this subpoena is directed)*

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:

See attached Schedule A.

Place: Wu Grohovsky & Whipple PLC
1300 Pennsylvania Ave., NW, Suite 700
Washington DC 20004

Date and Time:

March 4, 2016 10:00 A.M.

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: February 23, 2016

CLERK OF COURT

OR

*Signature of Clerk or Deputy Clerk**Attorney's signature*

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* Ortiz et al.
, who issues or requests this subpoena, are:

Richard F. Bernstein, McInnis Law, 521 Fifth Ave. 17th Fl., NY NY 10175, rbernstein@mcinnis-law.com

Notice to the person who issues or requests this subpoena

A notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*I received this subpoena for *(name of individual and title, if any)* _____on *(date)* _____.☐ I served the subpoena by delivering a copy to the named person as follows: __________
_____ on *(date)* _____; or☐ I returned the subpoena unexecuted because: _____Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

*Server's signature*_____
*Printed name and title*_____
Server's address

Additional information regarding attempted service, etc.:

Schedule A

All documents concerning Medicare claims, claims information, claims reimbursements and claims denials for radiology services, including, but not limited to, claims data, claims forms, claims reimbursement requests, claims denial notices, correspondence and payment data for claims submitted to Medicare by or on behalf of the following providers and their affiliates:

a. Mount Sinai Hospital, Icahn School of Medicine at Mount Sinai, Mount Sinai School of Medicine, Faculty Practice Associates Department of Radiology, Mount Sinai Radiology Associates, Radiology Department of Mount Sinai, Faculty Practice Associates Mount Sinai School of Medicine and FPA Hospital Based (collectively, Mt. Sinai); and

b. all individual healthcare providers who rendered or billed for radiology services performed at Mt. Sinai's business practice location.

Instructions concerning the production of electronically stored information and data. Include the following information with the production::

- a. All extractable fields of information for each Medicare claim; and
- b. An index for the data fields sufficient to decipher the codes used in each field.

Medicare claims Defined. "Medicare claims" means and includes healthcare provider requests for reimbursement from the Medicare Program for both the professional and technical billing components for radiology services.

Applicable Timeframe for Medicare Claims and Claims Information: The applicable timeframe for the Medicare claims information requested is from January 1, 2006 to December 31, 2011, inclusive.

Applicable Business Practice Location: The applicable business practice location for the Medicare claims information requested is 1176 Fifth Avenue, New York, NY 10029.

Protected Health information Assurances: Information, documents, or electronically stored information produced by CMS will be treated as Protected Health Information under the Health Insurance Portability and Accountability Act of 1996 and regulations.

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

UNITED STATES DISTRICT COURT

for the

Southern District of New York

UNITED STATES and STATE OF NEW YORK ex rel.
XIOMARY ORTIZ and JOSEPH GASTON,*Plaintiffs*

v.

MOUNT SINAI HOSPITAL, MOUNT SINAI SCHOOL OF MEDICINE,
and MOUNT SINAI RADIOLOGY ASSOCIATES,*Defendants*

Civil Action No. 13 CV 4735 (RMB (BCM))

**SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION**To: United States Department of Health and Human Services, Centers for Medicare and Medicaid Services
200 Independence Ave., SW, Rm 713-F, Washington, DC 20201*(Name of person to whom this subpoena is directed)*

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: All Part B claims, payments and denials data and information for the group biller with NPI # 1780787796 (Medicare billing # W05662) and Medicaid provider identificaon # 03226024) and for the individual billing providers listed on the attached Ex. A, all for the period 1/1/2007 thorough 2/1/1022, inclusive.

Place: Wu Grohovsky & Whipple PLC
1300 Pennsylvania Ave., NW, Suite 700
Washington DC 20004Date and Time:
March 4, 2016 10:00 A.M.

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:

Date and Time:

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: February 23, 2016

CLERK OF COURT

OR

*Signature of Clerk or Deputy Clerk**Attorney's signature*

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* Ortiz et al.
_____, who issues or requests this subpoena, are:

Richard F. Bernstein, McInnis Law, 521 Fifth Ave. 17th Fl., NY NY 10175, rbernstein@mcinnis-law.com

Notice to the person who issues or requests this subpoena

A notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. _____

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*I received this subpoena for *(name of individual and title, if any)* _____on *(date)* _____.☐ I served the subpoena by delivering a copy to the named person as follows: __________
_____ on *(date)* _____; or☐ I returned the subpoena unexecuted because: _____Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 .

I declare under penalty of perjury that this information is true.

Date: _____

*Server's signature*_____
*Printed name and title*_____
Server's address

Additional information regarding attempted service, etc.:

EXHIBIT A

PHYSICIAN NAME	MEDICAID NO.	MEDICARE NO.	NPI
ARGIRIADI, Pamela A.	03190847	4ECE305662	1699945014
BEITIA, Laura G.	02246519	564T405662	1841290905
CHAM, Matthew D.	02737539	A400033328	1275547648
CHATTERJI, Manjil	03226524	A400033330	1104872696
COHEN, Emil	Record not located	723T905662	1952303356
COLL, Deirdre	01976705	6206505662	1669461273
DELMAN, Bradley N.	01977499	6206505662	1306846738
DESAL, Kapil	03039205	A400015837	1528262219
DOSHI, Amish	03078122	A400009059	1255592861
DRAYER, Burton P.	01642213	6026905662	1972592590
EBER, Corey D.	01263345	A400009056	1821126590
ELLOZY, Sherif	02431354	1567N10	1689640476
FARMAN, Jack	00589340	5136305662	1942200373
FISCHMAN, Aaron M.	03210184	A400032546	1699934844
GARCIA, Mario	02421281	0250X05662; 0250X06481	1669567210
GLASS, Ronald	01213625	A400015953	1447250899
GOTTSMAN, Robin	01086626	41X8105662	1730363805
HALTON, Kathleen P.	01032122	03E3705662	1851380711
HAN, Bokyoung	02472035	657T105662	1538252762
HENSCHKE, Claudia I.	00852364	A400038850	1932203049
HERMANN, George	00390616	3270905662	1437138062
KAMATH, Amita	03219261	A400032254	1558488387
KELLER, Rhona	00390625	5056005662	1508866955
KHANNA, Arati	02918578	47C0105662	1295782506
KIM, Edward	02975235	4ECE405662	1851565543
KWAI, Andrew H.	02353079	637S005662	1780673483
LAW, Eu-Meng	02866122	630S505662	1952366833
LEE, Karen M.	02769491	917S505662	1518983378
LEEDS, Norman	00102112	5083505662	1750381117
LEFKOVITZ, Zvi	01446573; 01446579	75H0105662	1538265392
LERNER, David L.	01863029	6136505662	1568462802
LIAO, Steve L.	03308481	A400027913	1912178021
LOOKSTEIN, Robert A.	02218591	6949405662	1164422531
MARGOLIES, Laurie	02915020	5CDC505662	1770578379

EXHIBIT A

PHYSICIAN NAME	MEDICAID NO.	MEDICARE NO.	NPI
MASSEAU, Joy	02758845	917S805662	1699880682
MENDELSON, David S.	00731017	52A0905662	1902895808
MITTY, Harold A.	00390161	4391505662	1265423446
NAIDICH, Thomas P.	01897103	6168205662	1073513354
NIELSEN, James	02378247	A400002715	1669432266
NOWAKOWSKI, Francis S.	02134485	430T505662	1245230531
PATEL, Neesha S.	03190865	A400033364	1134389620
PAWHA, Puneet	03190883	A400006674; A400030284	1023048253
RABINOWITZ, Jack G.	00390652	3467205662	1922097245
RAUSCH, Dana R.	02409272	664T205662	1578563870
ROSEN, Ally	02811109	76R5605662	1376567230
ROSENBERG, Henrietta K.	02375708	606T905662	1306835897
SACHER, Michael	00507433	6573005662	1609876911
SHAPIRO, Robert S.	01205563	63F4905662	1215926779
SIMPSON, William L.	02061732	9719505662	1285634451
SOM, Peter M.	00390432	6808705662	1487654703
STANGL, Paul A.	02667105	768T405662	1114916921
STERN, Richard H.	01755917	6096505662	1053304980
STOLLMAN, Aryeh L.	00961495	73D5905662	1851384820
SWYER, Alfred J.	00344014	8246505662	1033108634
SZABO, Janet	02915039	5ECE905662	1750483335
TANENBAUM, Lawrence	01245752	67T6105662	1851371272
TAOULI, Bachir	02492097	A400015951	1972569705
TONG, Carrie L.	02873316	A400035120	1033238670
TURETZ, Franklin S.	00306152	9513305662	1740273721
VATTI, Sridhar	02526956	677S705662	1982604112
WEINSTEIN, Zelig	Record not located	Record not located	Record not located
WEINTRAUB, Joshua L.	02040742	6973905662	1871699637
WILCK, Eric J.	01213047	67F0005662	1386632230
YANKELEVITZ, David F.	00936769	A400031717	1689688764
YEH, Hsu-Chong	00490148	2862605662	1093790420

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

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(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

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- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
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(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

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(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

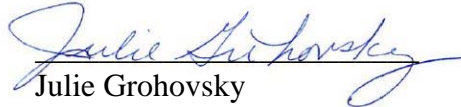
The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

CERTIFICATE OF SERVICE

Julie Grohovsky, one of the attorneys for the Plaintiffs in this action, hereby affirms pursuant to 28 U.S.C. § 1746:

I have today served the foregoing motion and accompanying Statement of Facts and Memorandum in support of the motion on the following by causing copies thereof to be sent to the following addressees by the means indicated:

Dated: February 26, 2016


Julie Grohovsky

Via Certified Mail Return Receipt Requested

United States Department of HHS
CMS, by the General Counsel
200 Independence Ave., S.W., Room 713-F
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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

In re:)	
)	
UNITED STATES and STATE OF NEW YORK)	
ex rel. XIOMARY ORTIZ and JOSEPH)	
GASTON, <i>plaintiffs</i> , v. MOUNT SINAI)	Case: 16ms _____
HOSPITAL, MOUNT SINAI SCHOOL OF)	
MEDICINE, AND MOUNT SINAI)	
RADIOLOGY ASSOCIATES <i>Defendants</i>)	
(S.D.N.Y. no. 13 CV 4735-RMB-BCM)	
)	

**ORDER COMPELLING THE UNITED STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES TO PRODUCE RECORDS**

The United States District Court for the District of Columbia, being apprised of the issues in this suit and cognizant of the need for the production of discovery to be conducted in the above-captioned case, ORDERS AND COMPELS the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services (“CMS”) to disclose to Plaintiffs Xiomary Ortiz and Joseph Gaston the records requested in the subpoenas dated February 23, 2016 issued by the plaintiffs in *United States, et al. ex rel. Ortiz et al. v. Mount Sinai Hospital, et al.*, docket no. 13 CV 4735 (RMB) (BCM), pending in the United States District Court of the Southern District of New York (the “New York action”), including records protected from disclosure by the Privacy Act, 5 U.S.C. § 552a et seq. and regulations.

Any and all documents and information which CMS discloses pursuant to this Order shall be designated as “CONFIDENTIAL MATERIAL as that term is used in the Consent Discovery Confidentiality Order entered in the New York Action on December 7, 2015 (ECF no. 53). Accordingly, any and all documents which CMS discloses shall be used solely for the purpose of litigation in this case, shall not be shown or communicated in any way inconsistent with the above-mentioned Consent Discovery Confidentiality Order, and shall be destroyed at the conclusion of this litigation.

SO ORDERED.

UNITED STATES DISTRICT JUDGE

To:

United States Department of Health and Human Services
Centers for Medicare and Medicaid Services, by the General Counsel
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UNITED STATES DISTRICT COURT
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In re:)	
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UNITED STATES and STATE OF NEW YORK)	
ex rel. XIOMARY ORTIZ and JOSEPH)	
GASTON, <i>plaintiffs</i> , v. MOUNT SINAI)	Case: 16ms _____
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MEDICINE, AND MOUNT SINAI)	
RADIOLOGY ASSOCIATES <i>Defendants</i>)	
(S.D.N.Y. no. 13 CV 4735-RMB-BCM)	
)	

**ORDER TRANSFERRING SUBPOENA-RELATED MOTION TO THE U.S. DISTRICT
COURT FOR THE SOUTHERN DISTRICT OF NEW YORK**

The United States District Court for the District of Columbia, being apprised that (i) subpoenas addressed to the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services (“CMS”) dated February 23, 2016 have been issued from the U.S. District Court for the Southern District of New York (the “issuing court”) in *United States, et al. ex rel. Ortiz, et al. v. Mount Sinai Hospital, et al.* (S.D.N.Y. docket no. 13 CV 4735 (RMB) (BCM) (the “New York action”), Magistrate Judge Barbara C. Moses presiding; (ii) the Plaintiffs in the New York action have moved this Court to compel compliance with the subpoenas (the “motion to compel”), or alternatively, to transfer the motion to compel to the issuing court; (iii) objections by the Defendants to the subpoenas are pending before the issuing court; and (iv) CMS consents, pursuant to Fed. R. Civ. P. 45(f), to transferring the motion to compel to the issuing court,

ORDERS pursuant to Fed. R. Civ. P. 45(f) that the Relators’ motion to compel shall be and hereby is transferred to the U.S. District Court for the Southern District of New York.

SO ORDERED.

UNITED STATES DISTRICT JUDGE

To:

United States Department of Health and Human Services
Centers for Medicare and Medicaid Services, by the General Counsel
200 Independence Ave., S.W., Room 713-F
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